



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Ben G. Oneal, President
State Board of Education
Austin, Texas

Dear Sir:

Opinion No. 0-3861
Re: Authority of Board of
Education to adopt
textbooks to be used
for instruction in
grades above junior
high school levels, and
related matters.

We have received your letter of recent date in which you ask the opinion of this department upon the above captioned matter.

Section 2 of Article 2844a, Vernon's Annotated Civil Statutes, reads as follows:

"The State Textbook Commission is hereby empowered to adopt single basal textbooks of a type suitable for junior high schools, provided seven-ninths of the Commission approve the policy; the adoption of the text to be made by six (6) votes as in other adoptions and provided further, that such junior high school textbooks shall be furnished free only to such school systems as maintain junior high school organizations, as certified by the proper school authorities to the State Board of Education."

You are interested in the interpretation of the clause "... provided further, that such junior high school textbooks shall be furnished free only to such school systems as maintain junior high school organizations, as certified by the proper school authorities to the State Board of Education."

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You ask whether under the above quoted section the Board of Education may adopt textbooks to be used for instruction in grades above the junior high school levels. This section authorizes the adoption of textbooks only for junior high schools. To hold that it applies to other schools would be contrary to the plain wording of the statute. It is manifest that grades above the junior high school levels would not be part of the junior high school. It follows that your question must be answered in the negative. 39 Tex. Jur. 161.

You also ask whether textbooks may be adopted for grades seven, eight, and nine in schools not having organized junior high schools. It is our opinion that unless a junior high school is administratively set up and operated as such, Section 2 of Article 2844a has no application. If it is so set up and operated, then Section 2 would apply to the adoption of textbooks. If it is not, then the adoption of textbooks would be governed by other statutory provisions. See Articles 2843, 2844, 2844a, Section 1.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*
Glenn R. Lewis
Assistant

GWS:fs

By *George W. Sparks*
George W. Sparks

APPROVED AUG 21, 1941

Gerald E. Mann

ATTORNEY GENERAL OF TEXAS

